



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:)	
)	Before the Examiner
Patrick Egan)	
)	Nguyen, Chi Q.
Serial No.: 09/633,937)	
)	Group Art Unit 3637
Filed: August 8, 2000)	
)	Our Ref.: 20181-2
PRE-FABRICATED WALL PANELING)	

DECLARATION OF PATRICK EGAN

I, Patrick Egan, hereby declare as follows:

1. I am the President of Thermocore Structural Insulated Panel Systems ("THERMOCORE"), which is the assignee of U. S. Patent Application No. 09/633, 937 ("EGAN APPLICATION"), attached as Exhibit A. THERMOCORE has been in the business of manufacturing and selling different types of prefabricated wall panel systems since at least as early as 1997.
2. I am the inventor in the EGAN APPLICATION and appreciated that there was a significant need for an improved prefabricated wall paneling system. This appreciation led to commercialization of a unique prefabricated wall paneling system (PANEL) associated with the EGAN APPLICATION and produced by THERMOCORE. The PANEL includes a variety of different configurations of panels that manifest themselves through prefabricated components with different features. The types of different configurations generally needed by a customer include, but are not limited to: a prefabricated panel with a framed window opening; a prefabricated panel with a framed door opening; a prefabricated panel with a

framed window opening and a framed door opening; a prefabricated panel with neither window or door opening. Further almost all of the different configurations for the PANEL has at least one electrical box included therewith. I am familiar with U. S. Patents and have performed a careful review of the EGAN APPLICATION and the PANEL. It is my opinion that many of the different configurations of the PANEL are covered by one or more of the pending claims as set forth in Exhibit B. More specifically, it is my opinion that Independent claims 24 and 44 cover a configuration of the PANEL having a window or door associated there with. Independent claim 53 covers a configuration of the PANEL associated with a window and independent claim 56 covers a PANEL associated with an electrical box.

3. During the 2000 calendar year, the PANEL was introduced to the market by THERMOCORE. THERMOCORE had total sales of 1.2 Million dollars (US \$) during the 2000 calendar year and of that 30,000 dollars (US \$) were attributed to the PANEL. Please note that the sales volume attributed to the PANEL was for all the different configurations. The PANEL was priced competitively with other prefabricated wall panels and sold in the United States to perspective homebuilders. Marketing for the PANEL during the 2000 calendar year was limited mainly to contacting three of the larger customers of THERMOCORE and introducing the PANEL, advertising on the THERMOCORE web site and placing a quarter-page advertisement in the trade journal, *Timber Homes Magazine*. THERMOCORE did not employ any salesman to sell the PANEL and no extraordinary efforts were made by THERMOCORE to market or promote the sale of the PANEL. More specifically, I performed the sales function for the PANEL while running THERMOCORE.

4. During the 2001 calendar year, THERMOCORE had total sales of 1.9 Million dollars (US \$) and of that 285,000 dollars (US \$) were attributed to the PANEL. Please note that the sales volume attributed to the PANEL was for all the different configurations. The PANEL was priced competitively with other prefabricated wall panels and sold in the United States to prospective homebuilders. Marketing for the PANEL during the 2001 calendar year was limited mainly to word of mouth, advertising on the THERMOCORE web site and placing a quarter page advertisement in the trade journal, *Timber Homes Magazine*. THERMOCORE did not employ any salesman beside myself to sell the PANEL, and no extraordinary efforts were made by THERMOCORE to market or promote the sale of the PANEL. As discussed above, I performed the sales function for the PANEL while running THERMOCORE. The growth in sales of the PANEL over the prior year sales of the PANEL was 255,000 dollars.

5. During the 2002 calendar year, THERMOCORE had total sales of 2,600,000 dollars (US \$) and of that 545,000 dollars (US \$) were attributed to the PANEL. Please note that the sales volume attributed to the PANEL was for all the different configurations. The PANEL was priced competitively with other prefabricated wall panels and sold in the United States to prospective homebuilders. Marketing for the PANEL during the 2002 calendar year was limited mainly to word of mouth, advertising on the THERMOCORE web site and placing a quarter page advertisement in the trade journal, *Timber Homes Magazine*. THERMOCORE did not employ any salesman to sell the PANEL, and no extraordinary efforts were made by THERMOCORE to market or promote the sale of the PANEL. As discussed above, I performed the sales function for the PANEL while running THERMOCORE. The growth in sales of the PANEL over the prior year sales of the PANEL was 260,000 dollars

6. Through the second quarter of calendar year 2003, THERMOCORE had total sales of 1,400,000 dollars (US \$) and of that 600,000 dollars (US \$) are attributed to the PANEL. Please note that the sales volume attributed to the PANEL was for all the different configurations. The PANEL is priced competitively with other prefabricated wall panels and sold in the United States to prospective homebuilders. Marketing for the PANEL through the second quarter of calendar year 2003 has so far been limited mainly to word of mouth, advertising on the THERMOCORE web site, and placing a quarter page advertisement in the trade journal, *Timber Homes Magazine*. THERMOCORE did not employ any salesman to sell the PANEL and no extraordinary efforts were made by THERMOCORE to market or promote the sale of the PANEL. As discussed above, I performed the sales function for the PANEL while running THERMOCORE. The growth in sales of the PANEL up to the second quarter of the present calendar year represents a 55,000-dollar increase over sales of the PANEL for the entire calendar year 2002.
7. The commercial success of the PANEL is not significantly attributable to any unusual or excessive marketing or advertising by THERMOCORE. While THERMOCORE does tout the advantages of the PANEL, it has not undertaken any unusual or excessive advertising expenditure. Indeed, often times the PANEL sells itself with THERMOCORE receiving unsolicited requests from prospective customers to buy the PANEL which are, based on my understanding, from word of mouth success stories by other building contractors that are satisfied customers.

8. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

9/15/2003
Date


Patrick Egan